

ANDOVER TOWNSHIP COMMITTEE MEETING MINUTES

**BOB SMITH, MAYOR
GAIL PHOEBUS, DEPUTY MAYOR
PHIL BOYCE
ALEX GILSENAN
THOMAS WALSH**

**MARCH 23, 2009
6:30 P.M.**

REGULAR MEETING BEGINS AT 7:30 P.M.

The regular meeting of the Andover Township Committee was called to order at 6:31 P.M. by Mayor Smith, followed by a salute to the flag.

ROLL CALL: Present: Mr. Boyce, Mr. Gilsenan, Mr. Walsh,
Ms. Phoebus, Mayor Smith
Also present: Administrator Alfano, Attorney Semrau

OPEN PUBLIC MEETING STATEMENT Statement of compliance with Chapter 231, P. L. 1975 was made by Mayor Smith.

EXECUTIVE SESSION: Attorney Semrau asked if Under Attorney-Client Privilege, the Cilo Matter be added. On a motion by Mr. Walsh, seconded by Mr. Gilsenan, the resolution to go into executive session to discuss

Personnel Matters:

1. Personnel Committee

Discussion regarding the newly formed committee.

Contract Negotiations:

Attorney-Client Privilege:

1. Sparta Pumped Storage Project

Discussion regarding a status report on this matter.

2. Cilo Matter

Potential Litigation

1. Ray C. Inc., t/a Ray's Inn

Discussion regarding the latest police and ABC activity at this location.

Pending Litigation

,was carried unanimously.

(See Insert Attached to These Minutes)

The Committee went into executive session at 6:33 P.M. Mr. Walsh moved to adjourn executive session at 7:33 P.M., seconded by Mayor Smith and carried unanimously.

REGULAR MEETING

APPROVAL OF AGENDA Mr. Boyce moved to approve the agenda as presented, seconded by Mr. Walsh and carried unanimously.

APPROVAL OF CONSENT AGENDA ITEMS Mr. Walsh moved the following consent items be approved, seconded by Mr. Boyce and carried unanimously.

***CONSENT AGENDA:**

***OTHER BUSINESS:**

APPROVAL OF VOUCHERS FOR PAYMENT

(See Insert Attached to These Minutes)

***APPROVAL OF RAFFLE LICENSE - RL 860 CASINO NIGHT - NEWTON HIGH SCHOOL
ICE HOCKEY BOOSTER CLUB - TO BE HELD ON MAY 16, 2009 AT HILLSIDE PARK HALL
FROM 6:00 P.M. TO 12:00 A.M.***

***RESOLUTIONS:**

**#R2009-62 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO
AMEND RESOLUTION #R2009-58 DUE TO AN INCORRECT DATE OF
REDEMPTION FOR TAX SALE CERTIFICATE #07-00005**

(See Insert Attached to These Minutes)

***APPROVAL OF MINUTES**

JANUARY 26, 2009 EXECUTIVE SESSION

APPROVAL OF MINUTES

FEBRUARY 09, 2009 REGULAR MEETING

Mr. Walsh moved to approve the foregoing minutes as presented, seconded by Ms. Phoebus and carried unanimously.

PRESENTATION

ANDOVER REGIONAL SCHOOL BOARD BUDGET PRESENTATION

Linda Gianni School Board President introduced herself along with Superintendent Baggs and School Administrator Terry Van Auken. President Gianni's presentation mentioned the schools' statistics as they are compared to other K through 8 regional programs throughout the State as well as the schools' vision and mission statements.

Ms. Van Auken discussed the budget itself and explained where the current debt service commitment. She further explained the excess fund balance which is the balance over two percent that is to be returned to the taxpayers. She then mentioned the General Fund and Tax Levy.

PRESENTATION (CONTINUED)**ANDOVER REGIONAL SCHOOL BOARD BUDGET PRESENTATION**

Ms. Van Auken further explained where the schools' funds come from and how the money is spent. She cited the reduction in State Aid, stating they receive approximately \$2.8 million which is flat funding for the eighth year in a row. The District is budgeting a Fund Balance of \$34,962 which is excess surplus which has to be returned to the taxpayers. She went on to explain various projects and maintenance that are covered in this year's budget.

Superintendent Baggs addressed the public stating that the funds they need to achieve the District goals, maintain present facilities and all programs, promote increase use of the facilities by the community, and the hiring and developing highly qualified staff to name a few. He stated that the present budget and the one proposed to the voters has only a 1 % difference. The Board has done a series of budget cuts. They have also found ways to reallocate staffing the present special education teachers and aides. The funds are also being used for the Newton High School tuition payment.

Ms. Van Auken addressed the tax increases for Andover Borough and Andover Township. Andover Borough's portion is a little over 8 % and the remaining 92 % is for Andover Township. Andover Township's school levy tax to be raised is \$10,136,338. The debt service tax levy to be raised is \$713,420. is Andover Township's obligation for the coming school year. The estimated net taxable evaluation is \$622,000,000. She estimated that the school tax rate for 2009-2010 is 1.7429 and the tax impact would be approximately 6.5 cents per 100. Based on the average assessed home in the Township which is \$244,772., the increase impact will be \$159.34.

Mayor Smith commented that the school budget constitutes over 50 % of the tax dollars so any increase in this tax is a very significant increase. He added that the municipal budget is 25 % of the entire tax with the remaining being county taxes. He stated that he has heard the county has kept their taxes flat. The municipal budget may increase. Mayor Smith also stated that in reading the budget there was indication that enrollment was decreasing and expected to continue to do so. Ms. Van Auken stated that over the last two years enrollment is down 2 % across the board, adding there has been no significant decrease in any one particular grade that has allowed the school to make any positive impact on reducing the budget.

Mayor Smith suggested that everyone attend the public hearing on the budget next Tuesday night. He stated that education is near and dear to all, but it does come with a significant price tag to it. He then brought up the issue that was discussed when Mr. Baggs was being interviewed for the position of Superintendent, there was consideration of looking into the possibility of having Superintendent combined with a Principal. Mayor Smith stated that he was told at that time one of the reasons for having a Superintendent would be to increase the schools' rating and grade. He stated that he was told the school has been rated "A" and were seeking an "A+". He asked Mr. Baggs the status of this. Mr. Baggs stated that given the District Goals for next year as established by the Board and given the stability of the staff and administration, the school is on their way to meeting that goal. Mayor Smith requested that a status be made available to the governing body.

Mr. Gilsenan asked if there are any areas where more cuts could be addressed. Mr. Baggs stated the Budget is capped at 4 % and like any other school they are dealing with a State formula where their hands are tied as to where money can and can't go and how it can be spent. There are also formulas on accountability and regulations to where it's not dollars, they are looking at cents. Therefore, he stated they were able to take the budget which was initially well over CAP and completely reduce it to meet the goal of 4 % and it is important that we stay at this CAP mandate because there will be rising costs.

Mr. Boyce asked how many seats are available for the upcoming Board Election. Ms. Van Auken replied there is one candidate for the one year unexpired, and four for the three, three year seats. Mr. Boyce asked how information can be obtained on these candidates and Ms. Van Auken stated that this Information is available on their website. At this time the presentation was concluded.

OLD BUSINESS***DISCUSSION REGARDING A PROPOSED ORDINANCE TO VACATE A PORTION OF THE PAPER STREETS KNOWN AS SQUIRREL ROAD AND WOODLAND DRIVE, ADJACENT TO BLOCK 90, LOT 1, BLOCK 91, LOTS 3 AND 4 AND BLOCK 92, LOTS 1 AND 4 ON THE TAX MAP, SHEET NO. 42 OF THE TOWNSHIP OF ANDOVER***

Engineer Golden stated that he spoke with the property owner advising him of his concerns including the access to municipal property. Attorney Semrau suggested that since the applicant has submitted an escrow payment for services these concerns can be conveyed to him and then see if there is any resolution or proposal for the Mayor and Committee to be presented at a later date. Following a short discussion, it was decided that a letter would be sent to the applicant outlining these concerns.

BALLANTINE ROAD

Engineer Golden stated he submitted a proposal on February 25th for remedial action on this roadway. Engineer Golden explained the various options available and they were presented to the Township Committee for their consideration. Option One without topping the road would cost almost nothing because no permitting is necessary. Option Two is estimated at \$11,000 to Cap it and maintain the limits of the existing disturbances. Option Three is estimated at \$30,000 which would include permitting survey, engineering design and application fees to the State, all this requiring several months for a response. Mayor Smith asked what the effect on the environment would be if Option One was chosen. He replied that the effect would be minimal explaining that it is an existing dirt road that drains into one wetland or another, which there are a number alongside this road. In this case, portions would go to a wetland located southerly as opposed to us redirecting the water. Looking at the maps and surveys, he stated that there is indication that the road at one point did drain naturally to the wetland. With the additional home construction, that there is concern where the water runs off the driveways from those homes and that also runs across the street. He added that this is a natural flow which is permitted.

Mayor Smith recalled that in the past Engineer Golden stating that with the draining sheeting across the road naturally that the water would tend to be self-filtrating as it proceeded toward the wetlands and by the time it reached the area, it would be purified and there would be no problem with any type of pollutant. Engineer Golden replied to the greatest extent, yes. He stated that the discussion at that time was to put an opening in the planter to allow water to flow through and that would be about 200 feet from the wetlands.

Following a discussion by the Township Committee, Mr. Boyce, Mr. Walsh, Ms. Phoebus and Mayor Smith felt that Option Two was the best option. Mr. Gilsenan selected Option Three and presented his reasons for this decision.

Engineer Golden added that there is a request for the Committee as part of the final plan to vacate certain portions of Ballantine Road in order to be consistent with the approval from the Planning Board for Ballantine Woods Subdivision. Attorney Semrau stated that if this is in accordance with the approval, surveys, legal descriptions, and to ensure there is no underlying liens or claims against the property. Following that it should be subject to review and it would then come before the governing body. Engineer Golden advised that he and Land Use Board Attorney did review the file and found same to be in accordance with the Board's approval. Attorney Semrau also added that the Title needs to be reviewed to make sure nothing has changed.

REGULAR AGENDA

OPEN TO THE PUBLIC Before opening to the public portion, Mayor Smith remarked on the Sparta-Riverbank matter stating that they consulted with special counsel and hydrogeologist who are familiar with the FERC process. A telephone conference was held to establish roles, responsibilities, strategies and where we will go with this. He explained that the advice was to file an Intervention now. The application has not yet been finalized and we are uncertain when it might be deemed complete. He stated that he met with Ms. de Vries early last week and drafted some material which was sent to Mr. Mullhall for input. After his review it will go to the special counsel and back to the Township Committee for consideration.

There was then discussion regarding the routing of the lines. He stated that he and Mayor Brady from Sparta had discussions regarding this issue. He stated he has been in communication with Riverbank's President John Douglas and he has been responsive and has promised that he would provide a comment by this evening. Mayor Smith then read Mr. Douglas's response stating that their engineers spent the last week beginning to identify alternative routes that would avoid Andover Township altogether. The feasibility of these alternatives will need to be explored and any right of way owners will need to be contacted in order to determine availability. Mr. Douglas then wrote, once an alternative is confirmed, they will modify the FERC application.

Attorney Semrau explained the Intervention process. He then explained an Injunction which is to get involved and stop the actual process before FERC. He stated that Attorney Friedman responded that at this point in time the filing of any type of action to seek an Injunction would be pre-mature because under these circumstances, the application is not complete, the information and details have not been accepted by FERC.

Mr. Walsh moved to open the public portion, seconded by Ms. Phoebus and carried unanimously.

Mayor Brian Brady of Sparta Township stated that there is ongoing conversation with Riverbank, Sparta and Andover Township.

Maryann Zander, 18 Manor Drive stated she has heard that alternative routes are being investigated along with rights of way. She asked if this process was followed when choosing Andover Township has a site for running the lines. Mayor Smith stated that he is assuming they chose the path of least resistance.

Stan Christodlous stated that it is good news that Riverbank is considering alternate routes but he pointed out that there are other problems, such as potential for problems with the wells, noise, traffic and dust.

Fred Gillespie stated that one constraint there might be with an alternate route is the fact that you are traveling through the Highlands. With that in mind, does Riverbank have to go to the Highlands Council to obtain a variance? Mayor Brady stated that Sparta is leasing the land and the applicant would have to go through the process.

Anthony Massaro commented that he feels this deal is done and the only way to try and save our municipality is to start reviewing all legal options. This endeavor will cost the township a great deal of money to combat this matter. He stressed that the local legislators and other municipalities should be contacted in an effort to assist. Mr. Boyce stated there are residents who have begun collecting money to fight this issue. Mayor Smith stated that he would like to believe it is not a done deal and taking them at their word.

Mr. Coppolino stated that Sparta should post a \$5 million bond in order to protect our natural resources.

David White, Limecrest Road stated that PSE&G told him that there is no way that anyone could put another power line on that easement which means that they have to build a parallel easement like they are doing in Sparta. He stated that it is not the path of least resistance; it's no path at all. The Roseland project is coming through and will be the most powerful line in the United States. He stated he talks to these officials on a weekly basis and they would have to do another easement, 270 feet wide. Mayor Smith stated that they are talking about a completely alternate route no where near the one he is referring to. Mr. White suggested that these lines go through Sparta.

OPEN TO THE PUBLIC (CONTINUED) Mr. White displayed his map explaining the path these lines will take and it will be twice as wide. Ms. Phoebus stated that once they hook up to the Roseland-Susquehanna line the amount of power would increase that line from carrying 500 kw plus the 250 kw line going in the opposite direction. It would increase it further by another 500 kw with another 250 kw which means they would have to have a new easement. Mayor Smith reiterated that we do not want them going through Andover Township at all. Mr. White stated that he has been told that they are going to hook these lines to the substation across from his home. He stated that they can only hook it to a switching station. Mayor Smith stated once again that Andover Township's position is we do not want the lines coming through Andover in any way, shape or form.

Attorney Semrau stated that it is positive that they are looking for alternate routes but the follow-up question may be why are they saying they have to explore alternatives and easements when in fact, they will have to do that in Andover as well. He added we could ask them what would be the potential hold up in the planning process to just redirect the lines and worry about the easements and acquisitions later.

Charles Grotyohann of Brecia Court stated he is representing Dorset Farm Homeowners Association and they are very unhappy about this project. He stated that it appears this was just sprung upon the Township and it doesn't seem that a project of this magnitude would just appear. He stated that it had to have been in the works for many years. He asked why Sparta did not notify the Township of this long before recently. Mayor Smith stated that what he believes is the case is that in any legal environment there is contract negotiations and those are privileged communications. He added that you don't want competitors to be made aware. Mayor Smith added that once the contract was in place, Sparta did announce it and it was a surprise to us, but he stated he does not think they were intentionally trying to hide it. Mr. Walsh stated that he believes Sparta Manager Underhill said to someone on the Committee that where have we been, they have been in discussions and Ogdensburg has been kept in the loop.

Mr. Grotyohann further stated that Riverbank, in going through the contract and analyzing where the power lines are going, and they are coming through Andover Township, knowing it is going to affect the residents, our aquifer, our home values, imminent domain, why are they still moving forward with this project. Mr. Boyce stated that we have to look at Sparta as a contractor/developer in this project. He stated he has many questions as to whether or not this will even happen but he stated that we should be smart to be vigilant and to be public and organized to fight this application. Ms. Phoebus stated that instead of having several groups of homeowners, perhaps they should group together and make an action plan which she thinks would work with a Township Committee liaison. None of the committee is in support of this project and wants this negative impact in Andover Township. Mayor Smith agreed with Ms. Phoebus so information is shared and effort is not duplicated.

Robert Hanniman of Drake Manor stated that they have a date set for all residents of the affected areas to meet as a mass group and he invited the Township Committee to join them. This meeting will be Sunday, March 29th at 2:30 at a home in Drake Manor. Ms. Phoebus stressed that residents should attend the Freeholders Meeting this Wednesday.

Bob Dole of Southdown Drive stated that at first he could not believe that another town would do this and after attending the Sparta meeting last week he mentioned that his problem is how this project is being proposed. He stated he does not like the idea that a town in his County, where he grew up, would propose a project that as a land owner and not in charge of the ramifications of the project.

Lois de Vries stated she read the application and it does not say that it will run on an existing right of way. It clearly says that the right of way will run parallel to existing rights of way. She added that if in fact Riverbank-Sparta had gone through the process that they are now saying that they have to go through to examine other alternatives, then all the people in Dorset Farms would have been contacted prior to us finding out about the application. They would have needed access, surveys and the very thing they say they have to do for an alternate line would have been done from the very beginning.

OPEN TO THE PUBLIC (CONTINUED) Ms. de Vries added though we should give them the benefit of the doubt at the moment, she stated she does not feel they were at all forthcoming. It was only after a commotion was raised and we reached out to them.

There was then discussion regarding the date when the DEP will be on site when Riverbank starts the drilling phase which will happen within the next several weeks.

Open Space Chair Dan Freed spoke to the Township Committee regarding this Committee and the strides taken since the referendum was passed. He stated that he understands that the Finance Committee, in an attempt to reduce tax dollars was looking to suspend the tax for this year. Others also spoke in support of keeping the tax active for 2009.

Hearing nothing more from the public, Mr. Walsh moved to close the public portion, seconded by Ms. Phoebus and carried unanimously.

Mayor Smith recommended that the Constraints Ordinance be the last order of business to be addressed this evening. All were in agreement.

ORDINANCES: PUBLIC HEARING

#2009-03 TO AMEND CHAPTER 74 "LAND USE PROCEDURES"

"AN ORDINANCE TO AMEND THE GENERAL ORDINANCES OF THE TOWNSHIP OF ANDOVER, CHAPTER 74, LAND USE PROCEDURES, ARTICLE V, GENERAL PROVISIONS, BY DELEING SECTION 74-50, PENDING APPLICATIONS AND REPLACING IT WITH A NEW SECTION 74-50 ENTITLED "LOT LINE ADJUSTMENT APPROVAL"

Mr. Walsh moved to open the public hearing on this ordinance, seconded by Mr. Boyce and carried unanimously. Hearing no comments from the public, Mr. Walsh moved to close the public hearing, seconded by Ms. Phoebus and carried unanimously.

An ordinance of which the foregoing is the title was introduced and passed on first reading at the regular meeting of the Andover Township Committee on February 23, 2009, was advertised according to the law and was brought before the public for final consideration. There being no objections, Mr. Gilsenan moved the adoption of the above entitled ordinance, seconded by Ms. Phoebus. Roll call vote:

Mr. Boyce - yes	Mr. Gilsenan - yes
Ms. Phoebus - yes	Mr. Walsh - yes
Mayor Smith - yes	

#2009-07 TO REPEAL CHAPTER 3, SECTION 3-70 AND REPLACE WITH "ECONOMIC DEVELOPMENT ADVISORY COMMITTEE"

"AN ORDINANCE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY REPEALING CHAPTER 3, "ADMINISTRATION OF GOVERNMENT", SECTION 3-70 ET SEQ, "ECONOMIC DEVELOPMENT COMMITTEE" OF THE REVISED GENERAL ORDINANCES IN ITS ENTIRETY AND REPLACING SAME WITH NEWLY CREATED SECTION 3-70 ENTITLED, "ECONOMIC DEVELOPMENT ADVISORY COMMITTEE"

Mr. Walsh moved to open the public hearing on this ordinance, seconded by Ms. Phoebus and carried unanimously. Hearing no comments from the public, Mr. Walsh moved to close the public hearing, seconded by Ms. Phoebus and carried unanimously.

ORDINANCES: PUBLIC HEARING (CONTINUED)**#2009-07 TO REPEAL CHAPTER 3, SECTION 3-70 AND REPLACE WITH
"ECONOMIC DEVELOPMENT ADVISORY COMMITTEE"**

An ordinance of which the foregoing is the title was introduced and passed on first reading at the regular meeting of the Andover Township Committee on March 09, 2009, was advertised according to the law and was brought before the public for final consideration. There being no objections, Mr. Gilsenan moved the adoption of the above entitled ordinance, seconded by Ms. Phoebus. Roll call vote:

Mr. Boyce - yes	Mr. Gilsenan - yes
Ms. Phoebus - yes	Mr. Walsh - yes
Mayor Smith - yes	

**#2009-09 TO AMEND AND SUPPLEMENT CHAPTER 167,
"TOWING AND STORAGE FEES SCHEDULE"**

***"AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 167,
"TOWING AND STORAGE", SECTION 167-16, "TOWING AND STORAGE
FEES SCHEDULE" OF THE REVISED GENERAL ORDINANCES"***

Ms. Phoebus moved to open the public hearing on this ordinance, seconded by Mr. Walsh and carried unanimously. Hearing no comments from the public, Ms. Phoebus moved to close the public hearing, seconded by Mr. Walsh and carried unanimously.

An ordinance of which the foregoing is the title was introduced and passed on first reading at the regular meeting of the Andover Township Committee on March 09, 2009, was advertised according to the law and was brought before the public for final consideration. There being no objections, Mr. Walsh moved the adoption of the above entitled ordinance, seconded by Ms. Phoebus. Roll call vote:

Mr. Boyce - yes	Mr. Gilsenan - yes
Ms. Phoebus - yes	Mr. Walsh - yes
Mayor Smith - yes	

**#2009-12 FOR VARIOUS ROAD IMPROVEMENTS & EQUIPMENT
AND TO PROVIDE FOR THE FUNDING THEREOF**

***"AN ORDINANCE TO PROVIDE FOR VARIOUS IMPROVEMENTS TO STICKLES
POND ROAD AND ROAD IMPROVEMENTS & OVERLAYS FOR THE TOWNSHIP
OF ANDOVER AND TO PROVIDE FOR THE FUNDING THEREOF"***

Ms. Phoebus moved to open the public hearing on this ordinance, seconded by Mr. Boyce and carried unanimously. Hearing no comments from the public, Mr. Walsh moved to close the public hearing, seconded by Ms. Phoebus and carried unanimously.

An ordinance of which the foregoing is the title was introduced and passed on first reading at the regular meeting of the Andover Township Committee on February 23, 2009, was advertised according to the law and was brought before the public for final consideration. There being no objections, Ms. Phoebus moved the adoption of the above entitled ordinance, seconded by Mr. Boyce. Roll call vote:

Mr. Boyce - yes	Mr. Gilsenan - yes
Ms. Phoebus - yes	Mr. Walsh - yes
Mayor Smith - yes	

RESOLUTIONS (CONTINUED)**#R2009-65 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY SUPPORTING START EAGLE DEVELOPMENT CORP.'S APPLICATION FOR OBTAINING FUNDS FROM THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS, NEIGHBORHOOD PRESERVATION BALANCED HOUSING PROGRAM FOR THE PURPOSE OF DEVELOPING 8 UNITS OF AFFORDABLE HOUSING ON MULFORD ROAD, BLOCK 117, LOT 33**

Mr. Walsh moved to adopt the foregoing resolution as presented, seconded by Mr. Boyce.

Attorney Semrau explained that this matter relates to the Mulford Estates project where there is a proposal to the township that in addition to the four affordable housing units that they are obligated by the subdivision, for an additional four units and an additional property. He stated Mayor Smith, Administrator Alfano, Land Use Chair Christodlous, Engineer Golden and himself met with representatives from Mulford Estates. He wrote a letter to the developer indicating the Township Committee was interested however, there are some unanswered questions. This resolution will endorse that additional lot and certain benefits from the State of New Jersey. He added that before doing so, he spoke to the representative from SEED who would be involved in this program and she agreed that additional information is necessary. All this said it was recommended that this resolution be tabled indefinitely.

Mr. Walsh moved to table this resolution to an indefinite date, seconded by Ms. Phoebus and carried unanimously.

OTHER BUSINESS**APPROVAL OF RAFFLE LICENSES - POPE JOHN XXIII HIGH SCHOOL BOOSTER CLUB TO BE HELD ON APRIL 28, 2009 AT THE NEWTON COUNTRY CLUB FROM 11:00 A.M. TO 6:00 P.M.**

- A) R.L. 858 - ON PREMISE MERCHANDISE RAFFLE
- B) R.L. 859 - ON PREMISES 50/50

Mr. Boyce moved to approve the foregoing licenses as presented, seconded by Mr. Walsh. Roll call vote:

Mr. Boyce - yes	Mr. Gilseman - yes
Ms. Phoebus - abstain	Mr. Walsh - yes
Mayor Smith - yes	

ORDINANCES: PUBLIC HEARING (CONTINUED)**#2009-06 TO AMEND CHAPTER 190 "CONSTRAINTS"**

"AN ORDINANCE TO AMEND CHAPTER 190, "ZONING," §190-4 "DEFINITIONS" AND §190-34 "TABLES"; AND CHAPTER 131, "SITE PLAN REVIEW," §131-3 "DEFINITIONS," §131-6 "PERFORMANCE STANDARDS," §131-8 "PRELIMINARY APPROVAL, SITE PLAN DETAILS"; AND CHAPTER 131, ARTICLE IV "ENVIRONMENTAL IMPACT STATEMENT," §131-11, 131-12, 131-13; AND CHAPTER 159, "SUBDIVISION OF LAND," §159-6 "MINOR SUBDIVISION PLAT," §159-7 "MAJOR SUBDIVISION PLAT," §159-11 "PRELIMINARY PLAT," §159-20 "LOTS"; AND CHAPTER 74, LAND USE PROCEDURES," §74-37 "COMPLETE APPLICATION, DECISIONS," OF THE REVISED ORDINANCES OF THE TOWNSHIP OF ANDOVER, REGARDING REQUIREMENTS PERTAINING TO ENVIRONMENTAL IMPACT STATEMENTS AND RESOURCE CONSERVATION CALCULATIONS"

ORDINANCES: PUBLIC HEARING (CONTINUED)**#2009-06 TO AMEND CHAPTER 190 "CONSTRAINTS"**

Ms. Phoebus has recused herself from this matter and stepped down from the dais.

Mr. Gilsenan moved to open the public hearing, seconded by Mr. Boyce and carried unanimously.

Fred Gillespie of 115 Andover-Mohawk Road read a statement from Douglas Hiscano who is an Andover Township homeowner as well. His letter showed great support in adopting the Constraints Ordinance.

John Carafello of Eileen's Way asked for a clarification on paragraph 2, section 2, stating that existing lots are exempt. Attorney Semrau explained that if you already have an existing lot, this ordinance would not apply. He then stated that the 1989 Master Plan speaks of critical areas of the town. He further stated his concerns that because the conservation easements were never meant to be taken out of lot calculations because it is an easement, not a taking of the land. He added that this ordinance runs close to inverse condemnation in his opinion. He then questioned the building envelope of 20,000 feet because a house doesn't take up that large an area. He then stated that commercial properties can hurt the environment as any other property but believes that in the site plan, drainage and engineering calculations, the town can control what is going on and mitigate any possibilities. In closing he asked the Township Committee to reconsider the commercial portion of this ordinance.

Stan Christodlous of 6 Wisteria Road stated that regarding non-residential; this ordinance is not terribly different than what is currently on the books. He stated that this based on non-residential and impervious coverage, all these items are not subtracted out. He then explained the formula used to determine how many lots could be derived from a 100 acre parcel, subtracting wetlands and steep slopes, not allowing the owner to put 100 homes in a one acre zoning area. He added that he feels it is unreasonable to not subtract unbuildable land from this equation.

Diane Gillespie, 115 Andover-Mohawk Road read from the Municipal Land Use Law stating that the Master Plan has goals and objectives and every time the plan was amended, the Township added to those goals and objectives. She stated that some were addressed by the State of New Jersey. She added that the responsibility to see that the Master Plan objectives are met belong to the Land Use Board and Township Committee members. She continues to read that the Master Plan should protect the environment and conserve open space.

Lois de Vries of 85 Lawrence Road addressed two objections she heard regarding this ordinance. She stated though the document is nine pages long, the constraints portion is only two pages, one of which is a calculations chart. She said it basically states that if you can not build on this land it should not be allowed in the calculation of lot averaging. She stated that this ordinance is a lot yield for density and impervious cover ordinance and does not constrain anything that is not already constrained. The second objection is it will not let people use their own backyard. She stated that the already platted lots that are not sub-dividable are unaffected by this ordinance. She added that we need protective ordinances that guide development to the most suitable areas. She also explained the variance process which any property owner is welcomed to have their particular application reviewed by the Board.

Jeryl Turco Maglio, representing the estate of Jerry Turco, first stated that she finds it impossible that there could be 100 homes on a parcel of 10 acres of usable land. In five acre zoning the zoning is perfectly clear that clustering may be permitted up to one acre. So on 100 acres in a five acre zone the maximum permitted would be 20 homes and if there is a loss of acreage because of wetlands and other constraints, then you can put the 20 homes on 20 one acre lots. She stated that everything this ordinance is attempting to do is already addressed in current zoning, local, county and State and there is no need for additional.

ORDINANCES: PUBLIC HEARING (CONTINUED)**#2009-06 TO AMEND CHAPTER 190 "CONSTRAINTS"**

Ms. Maglio further commented that one of the serious problems she has is that she heard of a gentleman from Bernard's Township and found his comments discriminatory. She stated that Andover Township's average home is \$250,000 with farmers and families that have lived here for a very long time and they are entitled to the value of their land. She stated that this ordinance would extremely devalue their property. She referenced the Highlands Coalition and specifically Independence Township where a farmer who's land was worth \$1.5 million lost 80 percent of the value of his land and it was only worth \$300,000 as a result of the Highlands which is similar to the constraints ordinance. This farmer was not able to subdivide.

John Chambers, President of the Sussex County Association of Realtors spoke in opposition to this ordinance, voicing their concerns on how this ordinance would devalue property values in Andover Township.

Suzy Van Lenderkett, Stag Pond Road stated her objections made regarding the letter authored by Douglas Hiscano. She stated that if constraints are in place and if you are environmentally sensitive then there should be no objection to this ordinance.

Mr. Walsh moved to close the public hearing, seconded by Mr. Boyce and carried unanimously.

Mr. Walsh asked Engineer Golden how this ordinance would affect commercial and industrial zones. Engineer Golden explained that this is something that has recently come to his attention relative to impervious coverage in commercial development. He stated that the D'Angelo's property located at the corner of Limecrest Road and Newton-Sparta Road. An applicant had questions on zoning and the effects of zoning and the environmental laws. He stated that with a facility such as this one, the environmental regulations allow development within the buffer of a category one stream as long as the site has already been disturbed. The concern with this property and the 300 foot buffer as outlined in this ordinance cannot be counted in the density calculation although it is disturbed and although the DEP does allow building in this area. He stated that what happens is you subtract all the land of the buffer and then apply the 60 % impervious but a site such as this could almost be rendered inutility. The remaining space may not be cost effective to develop. Relative to commercial he does not think that the Committee thought about such type incidences, there is a risk of having properties such as this not be developable.

Mayor Smith remarked that Engineer Golden was an individual who felt the constraints ordinance was not stringent enough and asked why suddenly he feels this way. Engineer Golden explained that most of the ordinance he was referring to was regarding the Wantage ordinance which requires application to suitability to soil to septic, depth to groundwater which ours is not as restrictive in those regards and he felt it should be as a constraints ordinance.

Attorney Semrau referenced the comments made this evening regarding this ordinance. He stated that one property should not be considered when addressing an entire ordinance. Further discussion followed regarding this ordinance. The rest of the Township Committee made their arguments regarding this ordinance and then Mayor Smith called for the final vote.

Roll call vote:

Mr. Boyce - no
Mr. Walsh - no

Mr. Gilsenan - yes
Mayor Smith - yes

THIS ORDINANCE WAS NOT PASSED

Ms. Phoebus joined the Township Committee on the dais.

COMMITTEE REPORTS Mayor Smith suggested that the Township Committee waive their reports this evening. They were all in agreement.

REPORT FROM THE TOWNSHIP ADMINISTRATOR She spoke about the possibility of getting quotes on health benefits but because we are currently in the State Health Benefits Plan we need to purchase our history and make an application to HIF. She asked for authorization for \$2,000 for history and \$500 to make application. Mr. Walsh stated we just addressed our history check 1 1/2 years ago and we were told to wait before trying again. There was discussion regarding the amount of the wait period before trying again. It was decided to talk to the Township Auditor to get his opinion before a decision is made.

REPORT FROM THE MUNICIPAL ATTORNEY He stated that there was discussion tonight about joining with other communities regarding the Sparta Pumped Storage Project and he stated to keep in mind that if the township teams up with another municipality, the main concern is we may be at an impasse where there could be great differences.

NEXT SCHEDULED MEETINGS: Monday, April 13, 2009
Monday, April 27, 2009

Executive Session - 6:30 p.m.
Regular Meeting - 7:30 p.m.

ADJOURNMENT No further business appearing before the Committee at this time, Mr. Walsh moved the meeting be adjourned at 11:59 P.M., seconded by Mr. Boyce and carried unanimously.

Respectfully submitted,

Robert O. Smith, Mayor

Vita Thompson, R.M.C.
Municipal Clerk